

SBA

55

**COMPLAINT BY A PRISONER UNDER THE CIVIL RIGHTS ACT** ~~42 U.S.C §§ 1983~~

1 Name FRANKLYN ROBERT D OCT - 3 2007  
 2 (Last) (First) (Initial) RICHARD W. WIEKING  
 3 Prisoner Number H-96584 CLERK, U.S. DISTRICT COURT  
 4 Institutional Address HIGH DESERT STATE PRISON  
 5 P.O.BOX 3030 SLEAVILLE CALIFORNIA 96127

6 **UNITED STATES DISTRICT COURT**  
 7 **NORTHERN DISTRICT OF CALIFORNIA**  
 8 **(PR)**  
 9 **ROBERT DIANE FRANKLIN 07 5080 SBA**  
 10 (Enter the full name of plaintiff in this action.)  
 11  
 12 vs. } Case No. \_\_\_\_\_  
 13 P.A. G. DUDLEY } (To be provided by the clerk of court)  
 14 N. P. M. MILLER  
 15 CHIEF M.D. S.M. ROCHE  
 16 (Enter the full name of the defendant(s) in this action)  
 17

**COMPLAINT UNDER THE  
 CIVIL RIGHTS ACT,  
 42 U.S.C §§ 1983**

18 *[All questions on this complaint form must be answered in order for your action to proceed.]*

19 I. **Exhaustion of Administrative Remedies**

20 **[Note: You must exhaust your administrative remedies before your claim can go**  
 21 **forward. The court will dismiss any unexhausted claims.]**

22 A. Place of present confinement HIGH DESERT STATE PRISON

23 B. Is there a grievance procedure in this institution?

24 YES (X) NO ( )

25 C. Did you present the facts in your complaint for review through the grievance  
 26 procedure?

27 YES (X) NO ( )

28 D. If your answer is YES, list the appeal number and the date and result of the appeal at

1 each level of review. If you did not pursue a certain level of appeal, explain why.

2 1. Informal appeal APPEAL NUMBER IS HDSP 07-  
00770, AND IT WAS BYPASS AT THIS  
LEVEL.

3 2. First formal level APPEAL NUMBER IS HDSP 07-00770, AND  
IT WAS DENIED ON 04/04/2007, AT THIS  
LEVEL.

4 3. Second formal level APPEAL NUMBER IS HDSP 07-00770, AND  
IT WAS DENIED ON 05/14/2007, AT THIS LEVEL

5 4. Third formal level APPEAL NUMBER IS HDSP 07-00770,  
AND IT WAS DENIED ON 08/27/2007.

6 E. Is the last level to which you appealed the highest level of appeal available to you?

7 YES  NO

8 F. If you did not present your claim for review through the grievance procedure, explain

9 why.

10 N/A

11 N/A

12 N/A

13 II. Parties

14 A. Write your name and your present address. Do the same for additional plaintiffs, if any.

15 ROBERT DUDLEY FRANKLYN, HIGH DESERT STATE PRISON, P.O.  
BOX 3030, SUSANVILLE, CALIFORNIA 96127.

16 B. Write the full name of each defendant, his or her official position, and his or her place of  
17 employment.

18 G. DUDLEY, PHYSICAL ASSISTANT, EMPLOYMENT HIGH DESERT  
STATE PRISON. M. MILLER, PROVIDER ON CALL.

1 EMPLOYMENT, HIGH DESERT STATE PRISON. S. M.  
2 ROCHE, CHIEF MEDICAL OFFICER, EMPLOYMENT,  
3 HIGH DESERT STATE PRISON.

4 III. Statement of Claim

5 State here as briefly as possible the facts of your case. Be sure to describe how each  
6 defendant is involved and to include dates, when possible. Do not give any legal arguments or cite any  
7 cases or statutes. If you have more than one claim, each claim should be set forth in a separate  
8 numbered paragraph.

9 ON MARCH 22, 2007, G. DUDLEY, DENIED ME PAIN MEDICATION  
10 WHICH IS CLEARLY DOCUMENTED IN MY MEDICAL FILE. G.  
11 DUDLEY, INDICATED THAT I TAKE PAIN MEDICATION WHICH ONLY  
12 CAUSES ME MORE HARM THAN GOOD, WHICH IS ALSO DOCUMENTED  
13 IN MY MEDICAL FILE.

14  
15 ON APRIL 2, 2007, M. MILLER, LEARNED OF THIS CONSTITUTIONAL  
16 VIOLATION BY WAY OF APPEAL AND FAILED TO CORRECT IT.

17  
18 ON MAY 16, 2007, S. M. ROCHE, ALSO LEARNED OF THIS  
19 CONSTITUTIONAL VIOLATION BY WAY OF APPEAL AND ALSO  
20 FAILED TO CORRECT IT.

21  
22 IV. Relief

23 Your complaint cannot go forward unless you request specific relief. State briefly exactly what  
24 you want the court to do for you. Make no legal arguments; cite no cases or statutes.

25 THAT THE DEFENDANTS PAY THE PLAINTIFF COMPENSATORY  
26 DAMAGES IN THE AMOUNT OF \$1 MILLION DOLLARS,  
27 THAT THE DEFENDANTS PAY THE PLAINTIFF PUNITIVE  
28 DAMAGES IN THE AMOUNT OF \$1 MILLION DOLLARS.

1 THAT THE DEFENDANTS PAY THE PLAINTIFF FOR ONGOING  
2 PAIN AND SUFFERING IN THE AMOUNT OF \$1 MILLION DOLLARS.  
3 AND EACH DEFENDANT PAYS THESE AMOUNTS SEPARATELY.

4 I declare under penalty of perjury that the foregoing is true and correct.

5

6 Signed this 27 day of SEPTEMBER, 2007

7 Robert Edward Franklin

8 (Plaintiff's signature)

9

10

11

12

13

14

15

16

17

18

19

20

21

22

23

24

25

26

27

28

UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA

ROBERT D. W. FRANKLIN

PLAINTIFF or PETITIONER

v. G. DUDLEY, P.A.  
M. MYLLER, P.D.C.  
S. M. ROCHE, CHIEF M.D.

Case Number: C 07 4760 (SBA) (PR)

Defendant or Respondent

PROOF OF SERVICE

\_\_\_\_\_,  
I hereby certify that on SEPTEMBER 27 2007, I served a copy  
of the attached 42 U.S.C. 1983, by placing a copy in  
a postage paid envelope addressed to the person(s) hereinafter listed, by depositing said envelope  
in the United States Mail at HIGH DESERT STATE PRISON:

I declare under penalty of perjury that the foregoing is true and correct.

Robert D. W. Franklin

STATE OF CALIFORNIA

REASONABLE MODIFICATION OR  
ACCOMMODATION REQUEST

CDC-1824-(1/95)

Received

Received

Received

NOTE: THIS FORM IS TO BE USED ONLY BY INMATES/PAROLEES WITH DISABILITIES

FEB 16 2007

APR 12 2007

APR 20 2007

In processing this request, it will be verified that the inmate/parolee has a disability which is covered under the Americans With Disabilities Act. HDSP Appeals

8

MEDS  
(PAIN)

HDSP Appeals

INMATE/PAROLEE'S NAME (PRINT)

ROBERT FRANKLIN

CDC NUMBER

H-96584 MED JA

ASSIGNMENT

NINE

HOURS/WATCH

NINE

HOUSING

A-2-132 LOW

In accordance with the provisions of the Americans With Disabilities Act (ADA), no qualified individuals with a disability shall, on the basis of disability, be excluded from participation in, or be denied the benefits of the services, activities, or programs of a public entity, or be subjected to discrimination.

You may use this form to request specific reasonable modification or accommodation which, if granted, would enable you to participate in a service, activity or program offered by the Department/Institution/facility, for which you are otherwise qualified/eligible to participate.

Submit this completed form to the institution or facility's Appeals Coordinator's Office. A decision will be rendered within 15 working days of receipt at the Appeals Coordinator's Office and the completed form will be returned to you.

If you do not agree with the decision on this form, you may pursue further review. The decision rendered on this form constitutes a decision at the FIRST LEVEL of review.

To proceed to SECOND LEVEL, attach this form to an Inmate/Parolee Appeal Form (CDC 602) and complete section "F" of the appeal form.

Submit the appeal with attachment to the Appeals Coordinator's Office within 15 days of your receipt of the decision rendered on this request form.

If you are not satisfied with the SECOND LEVEL review decision, you may request THIRD LEVEL review as instructed on the CDC 602.

## MODIFICATION OR ACCOMMODATION REQUESTED

DESCRIPTION OF DISABILITY:

I AM DPM

WHAT VERIFICATION DO YOU HAVE OF YOUR DISABILITY?

MY MEDICAL FILE

RECEIVED  
MAY 31 2007  
INMATE APPEALS  
BRANCH

DESCRIBE THE PROBLEM:

I AM NOT BEING IDENTIFIED PAYING  
MEDICATION. I TAKE NARCOTIC MEDICATION AND  
HAVE BEEN TAKEN IT FOR YEARS. I AM NOW IN A  
GREAT DEAL OF PAIN AND I SHOULD NOT SUFFER  
JUST BECAUSE THIS INSTITUTION DOES NOT PAY  
NARCOTIC PAIN MEDICATION.

WHAT SPECIFIC MODIFICATION OR ACCOMMODATION IS REQUESTED?

THAT I BE TRANSFERRED  
AT ONCE BECAUSE I CANNOT FUNCTION WITHOUT  
MY NARCOTIC PAIN MEDICATION

Robert Franklin

INMATE/PAROLEE'S SIGNATURE

DATE SIGNED

02/15/07

3/16/07 5% NOT ADA

ISSUE MEDICAL  
PAIN MEDS

REASONABLE MODIFICATION OR ACCOMMODATION REQUEST  
CDC 1824 (1/95)

## REVIEWER'S ACTION

## TYPE OF ADA ISSUE

DATE ASSIGNED TO REVIEWER:

DATE DUE:

SCHOOL

PROGRAM, SERVICE, OR ACTIVITY ACCESS (Not requiring structural modification)

Auxiliary Aid or Device Requested

Other \_\_\_\_\_

PHYSICAL ACCESS (requiring structural modification)

## DISCUSSION OF FINDINGS:

See Attached

DATE INMATE/PAROLEE WAS INTERVIEWED

PERSON WHO CONDUCTED INTERVIEW

## DISPOSITION



GRANTED

DENIED

PARTIALLY GRANTED

## BASIS OF DECISION:

See Attached

NOTE: If disposition is based upon information provided by other staff or other resources, specify the resource and the information provided. If the request is granted, specify the process by which the modification or accommodation will be provided, with time frames if appropriate.

DISPOSITION RENDERED BY: (NAME)

TITLE

INSTITUTION/FACILITY

## APPROVAL

ASSOCIATE WARDEN'S SIGNATURE

DATE SIGNED

SCHOOL

DATE RETURNED TO INMATE/PAROLEE

See Attached



First Level  Granted  P. Granted  Denied  Other \_\_\_\_\_E. REVIEWER'S ACTION (Complete within 15 working days): Date assigned: 2-20-07 Due Date: 4-2-07

Interviewed by: \_\_\_\_\_

G. Dudley, PA-C on March 22, 2007

See Attached

Staff Signature: B. Snyder Title: Medical Appeals Date Completed: 4-4-07  
 Division Head Approved: M. Miller DPO PC Title: POC Returned \_\_\_\_\_  
 Signature: \_\_\_\_\_ Date to Inmate: 4-4-07 RB

F. If dissatisfied, explain reasons for requesting a Second-Level Review, and submit to Institution or Parole Region Appeals Coordinator within 15 days of receipt of response.

I AM DISSATISFIED WITH THE FIRST LEVEL RESPONSE BEING THAT PHYSICIAN ASSISTANT G. DUDLEY, INSIST THAT I TAKE TYLENOL, MOTRILIN OR NAPROXEN. NAPROXEN HAS CAUSED ME BLEED. IT HAS ALSO CAUSED ME A GREAT DEAL OF STOMACH DISTRESS (SEE EXHIBIT "A") WHICH MIGHT  
Robert Franklin SEE ATTACH SHEET

Signature: Robert Franklin Date Submitted: 04/18/07Second Level  Granted  P. Granted  Denied  Other \_\_\_\_\_G. REVIEWER'S ACTION (Complete within 10 working days): Date assigned: 4-20-07 Due Date: 5-18-07 See Attached LetterSignature: G. Dudley Medical Appeals Date Completed: 5/14/07Warden/Superintendent Signature: J. James Prospective CMO Date Returned to Inmate: 5-17-07 RB

H. If dissatisfied, add data or reasons for requesting a Director's Level Review, and submit by mail to the third level within 15 days of receipt of response.

I AM DISSATISFIED WITH THE SECOND LEVEL RESPONSE BEING THAT IT IS UNTRUE. I INFORMED MS DUDLEY BEFORE SHE EVEN STARTED THE INTERVIEW THAT I WANTED SOMEONE ELSE TO REVIEW MY APPEAL BEING THAT MS DUDLEY WAS THE PERSON WHO REVIEWED MY APPEAL AT THE FIRST LEVEL, AND FOR HER TO NOW REVIEW IT AGAIN AT THE SECOND LEVEL WOULD BE DENYING ME OF DUE PROCESS. TITLE 15 SECTION 3084.5 (e) STATES  
Robert Franklin SEE ATTACH SHEET

Signature: Robert Franklin Date Submitted: 05/28/07

For the Director's Review, submit all documents to: Director of Corrections

P.O. Box 942883  
 Sacramento, CA 94283-0001  
 Attn: Chief, Inmate Appeals

DIRECTOR'S ACTION:  Granted  P. Granted  Denied  Other \_\_\_\_\_ See Attached LetterDate: AUG 27 2007

F) STATE'S FACT I HAVE NEVER EXPERIENCED FROM TAKING TYLENOL AND MORTRIN FOR LONG PERIODS OF TIME. BLEEDING, SKIN RASHES AND TINGLING IN BOTH OF MY EARS. THESE MEDICATIONS HAVE ALSO CAUSED ME KIDNEY PROBLEMS, WHICH ISN'T GOOD FOR ME BEING THAT I ONLY HAVE ONE KIDNEY. SO FOR G. DUDLEY OR M. MILLER, N.P. TO INSIST OR RECOMMEND THAT I TAKE THESE MEDICATIONS DISPLAYS A RECKLESS DISREGARD FOR MY WELL BEING BECAUSE THIS IS WELL DOCUMENTED IN MY MEDICAL FILE. IT HAS BEEN CLEARLY ESTABLISHED IN THE RULING OF "PLATE J. DAVIS", THAT I MUST BE PROVIDED WITH ADEQUATE MEDICAL CARE. THE U.S. SUPREME COURT HELD THAT PRISONERS HAVE AN "EIGHTH AMENDMENT" RIGHT TO TREATMENT FOR PHYSICAL ALIENMENTS. AND "CDC" IS PROHIBITED FROM DELIBERATELY INDIFFERENT TO MY TREATMENT NEEDS "ESTEL J. AMBLE", 429 U.S. 97 (1976). I HAVE INFORMED THIS MEDICAL DEPARTMENT OF MY NEED FOR NARCOTIC PAIN MEDICATION, WHICH I HAVE BEEN TAKING SINCE "1989". AND THIS ADMINISTRATION DELIBERATELY IGNORES MY PLEA FOR MEDICAL ATTENTION, WHICH NOW RAISES A "DELIBERATE INDIFFERENCE" CLAIM FOR ME, WHICH I'M NOW PREPARING "WALKER, J. BENJAMIN", 293 F. 3d 1030, 1037 (2002); MCELLYGOTT J. FOLEY, 182 F.3d 1248, 1256 (1999). TITLE 15 SECTION 3350(A) STATES THE DEPARTMENT SHALL ONLY PROVIDED MEDICAL SERVICE TO INMATES, WHICH ARE BASED ON MEDICAL NECESSITY AND SUPPORTED BY OUTCOME DATA AS EFFECTIVE MEDICAL CARE. NARCOTIC PAIN MEDICATION IS THE ONLY MEDICATION THAT WORKS TO ADDRESS MY PAIN, AND FOR THIS ADMINISTRATION TO DENY ME OF IT IS ILLEGAL. AS WELL DISREGARDING MY MEDICAL NEEDS, INADEQUATE MEDICAL CARE VIOLATES THE U.S. CONSTITUTION OF THE "EIGHTH AMENDMENT" PROHIBITION ON CRUEL AND UNUSUAL PUNISHMENT, I REITERATE, THAT I BE TRANSFERRED TO A INSTITUTION THAT CAN ACCOMMODATE MY MEDICAL NEEDS BECAUSE I AM NOW IN SEVERE PAIN AND I SHOULDN'T HAVE TO SUFFER JUST BECAUSE THIS ADMINISTRATION DOES NOT PROVIDE NARCOTIC PAIN MEDICATION.

H) THAT APPEAL REVIEW "SHALL" NOT BE REVIEWED BY A STAFF PERSON WHO PARTICIPATED IN THE EVENT OR DECISION BEING APPEALED, OR WHO PARTICIPATED IN REVIEW OF A LOWER LEVEL APPEAL. TITLE 15 SECTION 3000.5 (c) STATES "SHALL" MEANS "MANDATORY". THE FIRST LEVEL

-OVER-

"H" cont.). RESPONDENTS AND THE SECOND LEVEL RESPONDENT WILL CLEARLY SHOW THAT MS DUDLEY, REVIEW MY APPEAL AT EACH LEVEL. I AM NOW SUBSTANTIALLY LIMITED IN MAJOR LIFE ACTIVITIES, SUCH AS WALKING AND STANDING" (SEE EXHIBIT "B") COMPREHENSIVE ACCOMMODATION CHROND" WITHOUT THE AID OF THE NARCOTIC PAIN MEDICATION THAT THIS ADMINISTRATION IS NOW DEPRIVING ME OF. AS STATED ABOVE, I'VE BEEN TAKING THIS MEDICATION "NARCOTIC PAIN" MEDICATION SINCE "1989" AND WITHOUT IT, I AM IN A GREAT DEAL OF PAIN, TO THE POINT WHERE I CAN'T WALK OR STAND. THIS "NEURONTIN" MEDICATION THAT MS DUDLEY, HAS INSIST I TAKE DOES NOT ADDRESS MY MEDICAL NEEDS, WHICH IS WHY I REFUSED IT. NEURONTIN MEDICATION ADDRESSES ONE WITH PAIN DUE TO SOME NERVE DAMAGE. HOWEVER, MY PAIN IS CAUSED DUE TO BROKEN BONES, DUE TO A CAR ACCIDENT AND GUN SHOT WOUNDS, I HAVE "OSTEOARTHRITIS", AND EMOTIONAL STRESS, WHICH I AM NOW EXPERIENCING, ONLY WORSENS MY CONDITION. I CAN'T TAKE ANY MEDICATION BUT "NARCOTIC PAIN MEDICATION" AND FOR THIS ADMINISTRATION TO DEPRIVE ME OF IT IS A FORM OF "DELIBERATE INDIFFERENCE". PRISON OFFICIALS HAVE A DUTY UNDER THE EIGHTH AMENDMENT TO PROVIDE "ADEQUATE MEDICAL CARE" HUDSON V. PALMER, 468 U.S. 514, 526-527 (1984). PHYSICAL ASSISTANT MS G. DUDLEY, S.M. ROCHE, M.D. - CHIEF MEDICAL OFFICER, AND M. MULLER - N.P. PROVIDER ON CALL, ARE ALL NOW LEGALLY LIABLE OF THE "DELIBERATE INDIFFERENCE STANDARD".

## EXHIBIT A

DATE	TIME	
12/29	105	
197	82	S: Pt c/o lower back pain x 12 years, s/p GSW to spine in back. Pt also has pain in left lower extremity 2 <sup>o</sup> /2 MVA & GSW. Pt has artificial knee cap in place. Pt has had 3 knee surgeries. Pt lost 2 feet of colon & lost ① kidney from GSW. Pt has been stable while left side is in constant pain; rated 7/10; pain worsens with weight bearing & cold climates. Pt states Motrin & Darvocet have helped in the past; but Ibuprofen has been stopped 2 <sup>o</sup> /2 G.I. bleeding.
20	122/76	
WT	196	
HT	5'6"	
SP0 <sub>2</sub>	98% O	
ABG	N/A	
Age	46	Pt has been taking Tylenol, 30-40 tabs per day, & not helping.
O: VS: Stable		
		GEN: NAD, WNL/ND
		HEENT: NC/AT, PERRI, EOM, TM's clear, O-P clear
		HEART: RRR & MURR
		LUNGS: CTAB 3 W/R/C
		ABD: SFT, NT/ND, ④ Numerous surgical scars in abdomen. NABD x 4Q
		EXT: ④ C/C/E; ① Knee with several well-healed scars
		NEURO: Antalgic gait, unsteady. Pt needs cane.
		ALP: ① Chronic Low Back Pain <ul style="list-style-type: none"> <li>- Vicodin x 1 week. Celebrex 100mg BID, 90 days</li> <li>(2) ① Knee Pain, s/p 3 surgeries <ul style="list-style-type: none"> <li>- Celebrex 100mg BID, LT/EB chronic, Cane chronic</li> </ul> </li> <li>(3) Tylenol Abuse <ul style="list-style-type: none"> <li>- D/C Tylenol, check Liver &amp; Kidney functions</li> </ul> </li> </ul>

INSTITUTION	HOUSING UNIT	CDC NUMBER, NAME (LAST, FIRST, MI) AND DATE OF BIRTH <i>Robert Franklin, DO</i> FRANKLIN Robert H 96 584 01-04-60
INTERDISCIPLINARY PROGRESS NOTES		
CDC 7230 (Rev 04/03) STATE OF CALIFORNIA		
DEPARTMENT OF CORRECTIONS		

EXHIBIT 15  
COMPREHENSIVE ACCOMMODATION CHRONO

**INSTRUCTIONS:** A physician shall complete this form if an inmate requires an accommodation due to a medical condition. Circle P if the accommodation is to be permanent, or T if the accommodation is to be temporary. If the accommodation is temporary, write the date the accommodation expires on the line. A new form shall be generated when a change to an accommodation is required or upon renewal of a temporary accommodation. Any new form generated shall include previous accommodations, if they still apply. Chronos indicating permanent accommodations shall be reviewed annually. This form shall be honored as a permanent chrono at all institutions.

## A. HOUSING

None

Barrier Free/Wheelchair Access

P/T \_\_\_\_\_

Ground Floor Cell

P/T \_\_\_\_\_

Continuous Powered Generator

P/T \_\_\_\_\_

Bottom Bunk

P/T \_\_\_\_\_

Single Cell (See 128-C date: \_\_\_\_\_)

P/T \_\_\_\_\_

Permanent OHU / CTC (circle one)

P/T \_\_\_\_\_

Other \_\_\_\_\_

P/T \_\_\_\_\_

## B. MEDICAL EQUIPMENT/SUPPLIES

None

Limb Prosthesis

P/T \_\_\_\_\_

Brace

P/T \_\_\_\_\_

Crutches

P/T \_\_\_\_\_

Cane: (type) Swing P

P/T \_\_\_\_\_

Walker

P/T \_\_\_\_\_

Dressing/Catheter/Colostomy Supplies

P/T \_\_\_\_\_

Shoe: (specify)

P/T \_\_\_\_\_

Dialysis Peritoneal

P/T \_\_\_\_\_

Wheelchair: (type) \_\_\_\_\_

P/T \_\_\_\_\_

Contact Lens(es) &amp; Supplies

P/T \_\_\_\_\_

Hearing Aid

P/T \_\_\_\_\_

Special Garment:

(specify) Mobility Vest P/T \_\_\_\_\_

Rx. Glasses: \_\_\_\_\_

P/T \_\_\_\_\_

Cotton Bedding Astham

P/T \_\_\_\_\_

Extra Mattress

P/T \_\_\_\_\_

Other Wrist Guards

P/T \_\_\_\_\_

## C. OTHER

None

Attendant to assist with meal access P/T \_\_\_\_\_  
and other movement inside the institution.Attendant will not feed or lift the inmate/patient  
or perform elements of personal hygiene.

Wheelchair Accessible Table P/T \_\_\_\_\_

Therapeutic Diet: (specify) \_\_\_\_\_

P/T \_\_\_\_\_

Communication Assistance

P/T \_\_\_\_\_

Transport Vehicle with Lift

P/T \_\_\_\_\_

Short Beard

P/T \_\_\_\_\_

Other \_\_\_\_\_

P/T \_\_\_\_\_

## D. PHYSICAL LIMITATIONS TO JOB ASSIGNMENTS

Based on the above, are there any physical limitations to job assignments?

 Yes  NoIf yes, specify: No lifting > 100 lbs

INSTITUTION	COMPLETED BY (PRINT NAME)	TITLE
SIGNATURE	DATE	CDC NUMBER, NAME (LAST, FIRST, MI) AND DATE OF BIRTH
HCM/CMO SIGNATURE (CIRCLE ONE)	DATE	Franklin, Robert H96584 A2-118
APPROVED / DENIED		

## COMPREHENSIVE ACCOMMODATION CHRONO

## Memorandum

Date: April 2, 2007

To: R. FRANKLIN, H-96584  
HOUSING UNIT A1-111L  
HIGH DESERT STATE PRISON

Subject: **APPEAL LOG # HDSP-A-07-00770**  
**FIRST LEVEL RESPONSE**

APPEAL DECISION: Appeal denied.

APPEAL ISSUE: The inmate states he is being denied pain medication. He states that he takes narcotic medication and has been taking it for years. The inmate states that now he is in a great deal of pain and he should not suffer just because this institution does not give narcotic pain medication.

On appeal, the inmate requests that he be transferred at once because he can not function without his narcotic pain medication.

APPEAL RESPONSE: Mr. Franklin, in reaching a decision on your appeal, your CDC-602, your medical file, applicable sections of the California Code of Regulations (CCR) Title 15, Departmental Operations Manual (DOM), and your interview with G. Dudley, PA-C, on March 22, 2007 were reviewed and considered.

Physician Assistant G. Dudley discussed with you the inability to prescribe narcotics on the yard. You were offered Tylenol for the pain but you refused and stated that it does not work. You stated you cannot take Motrin and Naproxen due to stomach problems. You indicated you were not happy with the offered plan of cure.

Be advised that medical transfers are based on medical necessity. If your Primary Care Provider recommends that you receive a medical treatment or service that is not available at High Desert State Prison, then a transfer to a facility that could provide it would be considered. Your request for transfer will not be granted as it is felt that HDSP is able to care for your medical needs at this time.

A review of the High Desert State Prison list for inmates with Test of Adult Basic Education Reading Scores of 4.0 or less indicates that your Reading Grade Point Level (RGPL) is above 4.0. A review of the HDSP "Assistive Device List" reveals that you do not require special accommodation to achieve effective communication. The method used to achieve effective communication was an oral interview using normal conversational tones and simple English. Your personal interaction with the interviewer, G. Dudley, PA-C, and the detail with which you were able to restate the discussion in your own words as well as your mannerisms established certainty that effective communication was achieved.

FRANKLIN H-96584

HDSP-A-07-00770

HIGH DESERT STATE PRISON

Page 2

Based on the information above your appeal is denied.

If you are dissatisfied with this response, you may appeal to Second Level appeals by following the directions located on the front of your CDC-602, inmate appeal form.

M. MILLER NP POC

M. MILLER, N.P.  
Provider On Call  
High Desert State Prison

c: Central File  
Appeal File  
Medical Appeal File

FIRST LEVEL RESPONSE

## Memorandum

Date: May 16, 2007

To: R. FRANKLIN, H-96584  
HOUSING UNIT A1-111L  
HIGH DESERT STATE PRISON

Subject: APPEAL LOG # HDSP-A-07-00770  
SECOND LEVEL RESPONSE

APPEAL DECISION: Appeal is denied.

APPEAL ISSUE: It is the position of the inmate that he is being denied pain medication. He stated that he takes narcotic medication and has been taking it for years. The inmate stated that now he is in a great deal of pain and he should not suffer just because this institution does not give narcotic pain medication.

At the first level, the inmate requested that he be transferred at once because he can not function without his narcotic pain medication.

At the second level, the inmate states that he cannot take Motrin or Naproxen due to stomach problems. He again requests narcotics be prescribed for pain and that he be transferred to another institution that can accommodate his medical needs.

APPEAL RESPONSE: Mr. Franklin, in reaching a decision on your appeal, your CDC-602, your medical file, applicable sections of the California Code of Regulations (CCR) Title 15, Departmental Operations Manual (DOM), and your interview with G. Dudley, PA-C on March 22, 2007, were reviewed and considered.

As noted previously, Ms. Dudley offered to prescribe medications for your pain. You refused Tylenol, Motrin, and Naproxen because you claim they do not work or cause you stomach problems. You were advised that medical transfers are based on medical necessity and that HDSP is able to care for your medical needs at this time.

At the second level, it is noted that you were seen again by Ms. Dudley on May 15. This examination reveals 60 degree flexion of the left hip with tenderness, difficulty getting on the exam table, ambulation with cane with a limp, negative straight leg raises bilaterally, 1+ patellar reflex on the left, and 2+ patellar reflex on the right. Ms. Dudley states that she offered you Neurontin for pain management. You stated that if you took the Neurontin then HDSP would be taking care of your medical needs so you refused the prescription. You stated that you wanted what you were taking previously. She explained that narcotics were not medically indicated at this time. She states that you told her that you wanted nothing else and left the exam room.

R. FRANKLIN, H-96584  
HDSP-A-07-00770  
HIGH DESERT STATE PRISON

Page 2

Also be advised again that medical transfers are based on medical necessity and a transfer for you is not medically indicated at this time.

A review of the High Desert State Prison list for inmates with Test of Adult Basic Education Reading Scores of 4.0 or less indicates that your Reading Grade Point Level (RGPL) is above 4.0. A review of the HDSP "Assistive Device List" reveals that you do not require special accommodation to achieve effective communication. The method used to achieve effective communication was an oral interview using normal conversational tones and simple English. Your personal interaction with the interviewer and the detail with which you were able to restate the discussion in your own words, as well as your mannerisms, established certainty that effective communication was achieved.

Based on the information above your appeal is denied. Your request for narcotics is not granted as they are not medically indicated at this time. A medical transfer to another institution is also not medically indicated.

If you are dissatisfied with this response, you may appeal to the Director's level by following the directions located on the front of your CDC-602, inmate appeal form.

*S. M. Roche, MD*  
S. M. Roche, MD  
Chief Medical Officer  
High Desert State Prison

c: Central File  
Appeal File  
Medical Appeal File

*SECOND LEVEL RESPONSE*

STATE OF CALIFORNIA  
DEPARTMENT OF CORRECTIONS AND REHABILITATION  
INMATE APPEALS BRANCH  
P. O. BOX 942883  
SACRAMENTO, CA 94283-0001

## DIRECTOR'S LEVEL APPEAL DECISION

Date: AUG 27 2007

In re: Franklin, H-96584  
High Desert State Prison  
P.O. Box 270220  
Susanville, CA 96127

IAB Case No.: 0615723

Local Log No.: HDSP 07-00770

This matter was reviewed on behalf of the Director of the California Department of Corrections and Rehabilitation (CDCR) by Appeals Examiner J. Stocker, Facility Captain. All submitted documentation and supporting arguments of the parties have been considered.

**I APPELLANT'S ARGUMENT:** It is the appellant's position that he has taken narcotic pain medication for years but his new institution, High Desert State Prison (HDSP), declines to prescribe him narcotic medication. Naproxen causes him stomach distress and bleeding. He requests immediate transfer to an institution that will provide him narcotic medication.

**II SECOND LEVEL'S DECISION:** The reviewer found that the appellant refused to accept alternative pain medications of Tylenol, Naproxen, and Motrin, stating that the medications were ineffective and caused him stomach problems. Physician Assistant (PA) Dudley examined the appellant on May 15, 2007, and found a 60-degree flexion of the left hip with tenderness, difficulty getting on the exam table, ambulation with a cane with a limp, negative straight leg raises bilaterally, 1+ patellar reflex on the left and 2+ patellar reflex on the right. PA Dudley offered the appellant Neurontin for pain relief, but the appellant declined, stating that if he took the Neurontin then HDSP would be taking care of his medical needs. Narcotics are not medically indicated at this time, nor is a medical transfer appropriate as the institution can respond to the appellant's medical needs.

**III DIRECTOR'S LEVEL DECISION:** Appeal is denied.

**A. FINDINGS:** It is apparent that the appellant has been examined by licensed medical professionals for the complaints that he describes. He has been treated in accordance with the professional judgments of the PA. Medication is an option that is best left to the treating health care provider.

**B. BASIS FOR THE DECISION:**

California Code of Regulations, Title 15, Section: 3350, 3350.1, 3354, 3379

**C. ORDER:** No changes or modifications are required by the institution.

This decision exhausts the administrative remedy available to the appellant within CDCR.



N. GRANNIS, Chief  
Inmate Appeals Branch

cc: Warden, HDSP  
Health Care Manager, HDSP  
Appeals Coordinator, HDSP  
Medical Appeals Analyst, HDSP

## INMATE/PAROLEE

## APPEAL FORM

CDC 602 (12/87)

Location: Institution/Parole Region

Log No.

Category

8

PAINT man  
transite

1. \_\_\_\_\_

1. \_\_\_\_\_

2. \_\_\_\_\_

2. \_\_\_\_\_

You may appeal any policy, action or decision which has a significant adverse affect upon you. With the exception of Serious CDC 115s, classification committee actions, and classification and staff representative decisions, you must first informally seek relief through discussion with the appropriate staff documents and not more than one additional page of comments to the Appeals Coordinator within 15 days of the action taken. No reprisals will be taken for using the appeals procedure responsibly.

NAME

ROBERT FRANKLIN

NUMBER

H-96584

ASSIGNMENT

NONE

UNIT/ROOM NUMBER

A2-118 BLOW

A. Describe Problem: I AM NOW SUFFERING A GREAT DEAL OF PAIN AND HAVE BEEN FOR OVER "5" MONTHS NOW. I ARRIVED HERE AT HDSP ON 02/13/07, AND I HAVE YET TO RECEIVE ANY MEDICATION. I'VE ADDRESSED THIS MATTER WITH MS DUDLEY IN PERSON ON SEVERAL OCCASIONS, AS WELL AS WITH G. JAMES, M.D. AND S.M. ROCHE, M.D. BY WAY OF A CDC 1824, AND EACH OF THEM HAS REPLIED ME MEDICATION. THE CDC 1824, WAS LOGGED HDSP-A-07-00770. I'VE BEEN RECENTLY INFORMED THAT I MUST RESUBMIT

If you need more space, attach one additional sheet.

B. Action Requested: THAT I BE TRANSFERRED AT ONCE TO A FACILITY THAT DOES ALLOW INMATES TO RECEIVE NARCOTIC PAIN MEDICATION BECAUSE I SHOULD NOT BE ALLOWED TO SUFFER JUST BECAUSE THIS ADMINISTRATION DOES NOT GIVE OUT NARCOTIC PAIN MEDICATION

Inmate/Parolee Signature: Robert Franklin

Date Submitted: 07/05/07

C. INFORMAL LEVEL (Date Received: 7/9/07)

Staff Response: You will need to discuss this with the doctor. An appointment is currently scheduled for you in the middle of July.

Staff Signature: *D. Jackson*

Date Returned to Inmate: 7-10-07

## D. FORMAL LEVEL

If you are dissatisfied, explain below, attach supporting documents (Completed CDC 115, Investigator's Report, Classification chrono, CDC 128, etc.) and submit to the Institution/Parole Region Appeals Coordinator for processing within 15 days of receipt of response.

I AM DISSATISFIED WITH INFORMAL LEVEL RESPOND, BEING THAT IT HAS FAILED TO ACKNOWLEDGE THAT I HAVE ALREADY SPOKEN TO THE DOCTORS HERE AT HDSP, AND THEY HAVE INFORMED ME THAT HDSP DOES NOT ADMINISTER NARCOTIC PAIN MEDICATION. SO WHAT

Signature: Robert Franklin

Date Submitted: 07/11/07

Note: Property/Funds appeals must be accompanied by a completed

Board of Corrections ABC-1E, Inmate Claim

Received

CDC Appeal Number:

JUL 13 2007

HDSP Appeals

7/13/07 S/0 # 2  
HDSP-A-07-00770

Duplicate

First Level     Granted     P. Granted     Denied     Other \_\_\_\_\_

E. REVIEWER'S ACTION (Complete within 15 working days): Date assigned: \_\_\_\_\_ Due Date: \_\_\_\_\_

Interviewed by: \_\_\_\_\_

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Staff Signature: \_\_\_\_\_ Title: \_\_\_\_\_ Date Completed: \_\_\_\_\_

Division Head Approved: \_\_\_\_\_

Signature: \_\_\_\_\_ Title: \_\_\_\_\_ Returned \_\_\_\_\_

Date to Inmate: \_\_\_\_\_

F. If dissatisfied, explain reasons for requesting a Second-Level Review, and submit to Institution or Parole Region Appeals Coordinator within 15 days of receipt of response.

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Signature: \_\_\_\_\_ Date Submitted: \_\_\_\_\_

Second Level     Granted     P. Granted     Denied     Other \_\_\_\_\_

G. REVIEWER'S ACTION (Complete within 10 working days): Date assigned: \_\_\_\_\_ Due Date: \_\_\_\_\_

See Attached Letter

Signature: \_\_\_\_\_ Date Completed: \_\_\_\_\_

Warden/Superintendent Signature: \_\_\_\_\_ Date Returned to Inmate: \_\_\_\_\_

H. If dissatisfied, add data or reasons for requesting a Director's Level Review, and submit by mail to the third level within 15 days of receipt of response.

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Signature: \_\_\_\_\_ Date Submitted: \_\_\_\_\_

For the Director's Review, submit all documents to: Director of Corrections

P.O. Box 942883

Sacramento, CA 94283-0001

Attn: Chief, Inmate Appeals

DIRECTOR'S ACTION:     Granted     P. Granted     Denied     Other \_\_\_\_\_

See Attached Letter

CDC 602 (12/87)    Date: \_\_\_\_\_

BY MY COMPLAINT UNDER "PLATA" WHICH IS NOW PRESENTING THIS COMPLAINT. I AM NOW EXPERIENCING NUMBNESS THROUGHTOUT MY LOWER BACK AS WELL AS LEFT ARM AND BOTH LEGS. DUE TO THE FACT OF BEING DEPRIVED OF NARCOTIC PAIN MEDICATION. THIS MEDICAL ADMINISTRATION HAS ONLY OFFERED ME MEDICATION THAT IS WELL DOCUMENTED IN MY MEDICAL FILE TO ONLY CAUSE ME ADDITIONAL ADVERSE EFFECTS. AS I STATED EARLIER, I AM NOW ENDURING A GREAT DEAL OF PAIN AS A RESULT OF THIS MEDICAL ADMINISTRATION DELIBERATELY DEPRIVING ME OF MEDICATION THAT HAS BEEN PROVEN TO BE INDISPENSABLE TO ADDRESSING MY MEDICAL CONCERNS. I AM ENCLOSING A COPY OF LETTERS I HAVE RECEIVED FROM LOMBARDIAN RAYNA CONNER AND CALIFORNIA PRISON HEALTH CARE REVENGERSHIP. THESE LETTERS ARE TO VERIFY THAT I AM ALSO PURSUING OUTSIDE ASSISTANCE IN ADDRESSING THIS MATTER ALSO TO SHOW YOU ALL WHY I AM NOW PURSUING THIS MATTER UNDER "PLATA".

D). OR WHY SHOULD I SPEAK TO THEM AGAIN, WHEN THEY HAVE MADE IT PERFECTLY CLEAR THAT THEY ARE NOT GIVING ME MEDICATION WHICH I HAVE BEEN TAKING PRIOR TO ARRIVING HERE AT HOSP. AS WELL AS, FOR YEARS ON THE STREETS.

"EXHIBIT "B"

**CALIFORNIA  
PRISON HEALTH CARE  
RECEIVERSHIP CORP.**

**EXHIBIT "B"**

Robert Sillen  
Receiver

March 27, 2007

Mr. Robert Duane Franklin  
Folsom State Prison (FOL)  
H96584, b-1, TD-1-02 Low  
PO Box 71  
Represa, CA 95671

Dear Mr. Franklin:

The California Prison Health Care Receivership has received your letter. We appreciate your correspondence. Our office carefully reviews each communication we receive regarding inmate patient health care. All information provided to us is considered in implementing systemic reform.

Due to the high volume of letters we receive, we are unable to immediately respond to all individual cases. If you have not already done so, we recommend that you utilize the 602 appeals process at your institution. You may also wish to contact counsel for the inmate class in *Plata v. Schwarzenegger*, the Prison Law Office. For your records, the address to the Prison Law Office is:

Prison Law Office  
General Delivery  
San Quentin, CA 94549

The Receiver is committed to creating a system where custody and health care staff together guarantee that access to care and quality of medical services in California prisons meet constitutional standards. An integral part of meeting that goal is hearing from the patients about the treatment they are receiving.

We will achieve improvements in the quality of medical care. However, it is a large and complex problem for which there are no quick fixes, but I assure you that the work has already begun. Thank you for your interest in the remedial process.

Sincerely,



Kristina Hector  
Inmate Patient Relations Manager

## OFFICE OF THE OMBUDSMAN

1515 S Street, Sacramento, CA 95814  
P.O. Box 942883  
Sacramento, CA 94283-0001

EXHLBZT 11B4



April 11, 2007

Robert Franklin, H96584  
High Desert State Prison  
P. O. Box 3030 A1-111L  
Susanville, CA 96127

Dear Mr. Franklin,

This is in response to your letter dated March 30, 2007 alleging you are not receiving medication for pain.

California Code of Regulations (CCR), Title 15, Article 8, Section 3084.1 (a) affords you the right to appeal any departmental decision, action, condition or policy that you can demonstrate as having an adverse effect upon you welfare. CCR, Section 3084.2 explains you are to use a CDC Form 602 (rev. 12-87), Inmate/Parolee Appeal Form, to describe the problem, action requested, and forward it to the appeals coordinator. There are four levels of appeals as indicated in CCR Section 3084.5 Levels of Appeal Review and Disposition. Appeal time limits, which are in working days, are indicated in CCR, Section 3084.6.

I spoke with the appeals staff at High Desert State Prison. Your appeal, log number HDSP A-07-770, regarding medication was denied on April 4, 2007 at the first level. If you are dissatisfied with this finding you may resubmit the appeal to the second level during the appropriate appeal time limit.

Based on the information provided to this office, it appears that you have not exhausted all of your appeal remedies. I am recommending that you both use and let the appeals process work at the appropriate levels.

This letter does not extend your window to appeal the matters described in your letter.

Sincerely,

*Ralyn Conner*

RALYN CONNER  
Ombudsman

cc: file

049J565443368

\$01.95

03/25/2007  
Initiated From 961  
US POSTAGE

HIGH DESERT STATE PRISON

HIGH DESERT STATE PRISON  
MR. ROBERT DILANE FRANKLIN H-96584  
P.O. BOX 3030 A-1-1381-DW  
HIGH DESERT, CALIFORNIA  
96127-3030

96127-3030 RECEIVED

OCT - 1 2007

RICHARD W. WIEKING  
CLERK, U.S. DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA

A1

TO: OFFICE OF THE CLERK, U.S. DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA  
450 GOLDEN GATE AVENUE  
SAN FRANCISCO, CALIFORNIA 94102

STATE PRISON